

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 31ST JANUARY 2007 / 11TH MAGHA 1928

CrI.MC.No. 236 of 2007()

CC.508/2003 of JUDL.MAGISTRATE OF FIRST CLASS-II, KOCHI

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PETITIONER: ACCUSED:

1. NAGENDRAN, S/O.KUTTY,
VISHALA BHAVAN, PALLURUTHI, KOCHI.
2. SANTHOSH, VISHALA BHAVAN,
PALLURUTHY, KOCHI.
3. RAJESH, VISHALA BHAVAN, KOCHI.

BY ADV. SRI.N.K.MOHANLAL

RESPONDENTS: COMPLAINANT:

1. SUB-INSPECTOR OF POLICE,
PALLURUTHY.
2. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY P.P. SRI.JIKKU JACOB.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 31/01/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R. BASANT, J.

CRL.M.C.NO.236 OF 2007

Dated this the 31st day of January, 2007

ORDER

The petitioners face indictment in a prosecution under Secs.323 and 447 read with Sec.34 of the IPC. Warrants of arrest have been issued against the petitioners by the learned Magistrate on account of their failure to appear before the learned Magistrate on one date of posting. The petitioners are willing to surrender before the learned Magistrate and apply for bail. The petitioners apprehend that such application to be filed by them may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. They therefore pray that directions may be issued under Sec.482 of the Cr.P.C. to the learned Magistrate to release the petitioners on bail when they surrender and apply for bail.

2. It is for the petitioners to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which they could not earlier appear before the learned Magistrate. I have no reason to assume

that the learned Magistrate would not consider the petitioners' application for regular bail on merits in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

3. In the result, this Crl.M.C. is dismissed; but with the specific observation that if the petitioners surrender before the learned Magistrate and seek bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself, unless compelling and exceptional reasons are there.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge